

**CITY OF CENTRAL  
CITY COUNCIL MEETING  
December 4, 2012**

**CALL TO ORDER**

A regular meeting of the City Council for the City of Central was called to order by Mayor Engels at 7:03 p.m., in City Hall on December 4, 2012.

**ROLL CALL**

Present: Mayor Engels  
Alderman Giancola  
Alderman Voorhies

Absent: Alderman Spain  
Alderman Lee

Staff Present: Manager Lanning  
Attorney Michow  
City Clerk Bechtel  
Finance Director Flowers  
Operations Director Kisselman  
CDD/HPO Thompson  
Utilities Superintendent Griffith  
Police Chief Krelle  
Fire Chief Allen

The Pledge of Allegiance was recited by all present.

**ADDITIONS AND/OR AMENDMENTS TO THE AGENDA**

The agenda was approved as presented.

**CONFLICTS OF INTEREST**

No Council Member disclosed a conflict regarding any item on the agenda.

**CONSENT AGENDA**

Alderman Voorhies moved to approve the consent agenda containing the regular bill lists for November 29, 2012; and the City Council minutes of November 20, 2012. Alderman Giancola seconded, and after a few questions to staff, the motion carried unanimously.

**PUBLIC FORUM/AUDIENCE PARTICIPATION**

Gloria Gaines, 781 Martin Drive, had comments for the agenda items as follows:

- a) Item #13: suggested that the HPC be allowed to have a member serve on PC;
- b) Item #14: expressed concern that the Council approve spending on a project that they have not made a decision to build;
- c) Item #18: in the Employee Handbook on Page 2 Section 7.5 (a) from the City Charter would like to language to state that Council does hire City Manager.

Joe Behm, Director of the Business Improvement District, had comments for the agenda items as follows:

- a) Item #9 & #10: stated that the admin expenses requested have been reduced and yet will do a good job managing the contract;
- b) Item #14: encouraged approval since the stakeholders have invested \$72,000 to do the study and get this project under way. There is more than 1/3 of the year where parking is constrained and we are losing business.

Kathy Heider, 350 Casey Street, suggested that the hours for the trash Ordinance be extended for the commuters and casino workers in our community.

## **SECOND READING AND PUBLIC HEARING**

Ordinance No. 12-16: *An ordinance amending Article VIII of Chapter 6 and Chapter 16 of the Municipal Code regarding Medical Marijuana Business Licensing and Zoning.*

Attorney Michow stated that the recent voter approved Amendment 64 is not included in this revision since it will not be effective until July 2013. Attorney Michow reviewed the changes as discussed at 1<sup>st</sup> reading on November 20, 2012. The purpose of this Ordinance is to repeal and reenact the City's medical marijuana regulations to:

- Update terminology based on the State Medical Marijuana Code ("MMC") so that "dispensaries" are now referred to as "centers".
- Establish a local licensing authority as required by the MMC, which is either the City Manager or the City Council.(depending on the nature of the application)
- Change the permitted hours of operation to conform to the MMC.
- Include prohibited locations, such as within 1,000 feet of a school, consistent with the MMC.
- Require issuance of written decisions on licenses within time frames set forth in the MMC.
- Refer to security requirements set forth in the MMC.
- Add requirements for patients and primary caregivers to limit number of plants to twelve (12), restrict cultivation to indoor use and only within primary dwelling unit (not accessory structures).
- Require primary caregivers to obtain business and sales tax license through the City. (must be kept confidential as is consistent with state law)

Mayor Engels opened the public hearing at 7:21 p.m. and invited comment. Hearing none, he closed the public hearing at 7:22 p.m.

Alderman Giancola moved to adopt Ordinance No. 12-16: An ordinance amending Article VIII of Chapter 6 and Chapter 16 of the Municipal Code regarding Medical Marijuana Business Licensing and Zoning. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Ordinance No. 12-17: *An ordinance of the City Council of the City of Central amending certain provisions of Article III of Chapter 7 of the Central City Municipal Code regarding garbage and refuse; and adopting time when residential trash cans can be outside.*

CDD/HPO Thompson explained that the purpose of this Ordinance is to amend the Municipal Code to identify when it is appropriate to put trash cans out by the curb. No such restriction currently exists. Staff is proposing to allow trash to be put out at 6:00 am until 9:00 pm on the day of trash service. While the City was able to pursue littering complaints against the property, the source of the concern,

trash cans left out all week, was not something which could be pursued from an enforcement perspective. The proposed hours are the same as Black Hawk.

Mayor Engels opened the public hearing at 7:24 p.m. and invited comment. Gloria Gaines, 781 Martin Drive, stated that this does not address trash collection for the Opera homes which is on Tuesday. Mayor Engels explained that is a separate collection so would not be covered. CDD/HPO Thompson added that the Opera has indicated that they would like to get on the City service next summer. Mayor Engels closed the public hearing at 7:26 p.m.

Alderman Voorhies moved to adopt Ordinance No. 12-17: An ordinance of the City Council of the City of Central amending certain provisions of Article III of Chapter 7 of the Central City Municipal Code regarding garbage and refuse; and adopting time when residential trash cans can be outside. Alderman Giancola seconded. In discussion, Alderman Giancola suggested changing the hours to be from 4:00 am to 9:00 pm. Alderman Voorhies amended the motion to revise those hours. Alderman Giancola seconded, without further discussion, the motion carried unanimously.

## **NEW BUSINESS**

Resolution No. 12-15: *A resolution of the City Council of the City of Central, Colorado approving the Assignment of Agreement for the operation of a Transportation Shuttle Service.*

Attorney Michow explained that the BID has revised their request for a monthly compensation to \$833.33 for administrative expenses to cover costs for the operational responsibility. The CCBID and Colorado Coach Transportation, LLC will enter into a new stand alone agreement effective January 1, 2013. The City will continue to fund operation of the shuttle service through funds generated by the transportation device fee and other general fund revenues.

Alderman Giancola moved to approve Resolution No. 12-15: A resolution of the City Council of the City of Central, Colorado approving the Assignment of Agreement for the operation of a Transportation Shuttle Service with a Management Fee of \$833.33 or \$10,000 annually. Mayor Engels seconded. In discussion, Alderman Voorhies stated that the 2013 budget has been set and Council needs to be fiscally responsible so wants to see that this cost stay in the budgeted amount. Manager Lanning stated that this will stay within the approved budget unless Council approves additional funds in advance. Alderman Giancola stated that assigning this service to the CCBID removes the City from any liability. When Mayor Engels called the question, the motion carried 2 votes to 1 with Alderman Voorhies voting no.

Resolution No. 12-16: *A resolution of the City Council of the City of Central, Colorado approving the First Amendment to Intergovernmental Agreement by and between the City of Central and the Central City Business Improvement District.*

Attorney Michow explained that this resolution via Ordinance 12-12, the City Council has extended the \$5.00 per month per gaming device fee (the "Marketing Fee") for calendar year 2013. The City's existing intergovernmental agreement with the Central City Business Improvement District (the "CCBID") dated April 20, 2012 (the "IGA") must be amended in order to reflect the extension of the Marketing Fee and to establish the terms and conditions under which the CCBID will use the funds generated by the Marketing Fee in 2013 to accomplish the joint advertising and marketing goals of the City and the CCBID.

The First Amendment to the IGA (the "First Amendment") is attached as **Exhibit 1**. Approval of the First Amendment will memorialize the terms under which the CCBID will utilize the funds

generated by the Marketing Fee in 2013. The City implemented the Marketing Fee in 2011 (for collection and use in 2012).

Substantive provisions of the First Amendment include:

- Marketing Fee revenues may only be used by the CCBID for costs and expenses associated with implementing the 2013 Marketing Plan or other costs and expenses approved by the City Manager in writing;
- Acknowledgment that the City's existing Shuttle Service Agreement (with Colorado Coach Transportation, LLC) will be assigned to the CCBID but that a portion of the funds generated by the City's existing transportation device fee (of \$22.08 per device per month) will continue to be used to fund the operation of the shuttle service; and
- Acknowledgment that the City will pay some agreed-upon portion of the CCBID's additional estimated costs associated with overseeing the CCBID – Shuttle Operator Agreement.
- At the November 20, 2012 Council meeting, Mr. Joe Behm, representing the CCBID, requested City Council to consider paying the CCBID \$18,000 per year (\$1,500 per month) to offset the CCBID's estimated additional costs associated with managing the CCBID – Shuttle Operator Agreement. City Council requested a more detailed cost breakdown.
- Mr. Behm has supplied the following estimates to the City:

Legal / admin / accounting	\$400.00 per month
Insurance	\$2,000.00 annually
Research / guest satisfaction	
Surveys	\$3,000.00 annual
Total:	\$9,800.00 annually

The CCBID is therefore requesting \$10,000 in additional funding from the City. Based on this request, paragraph 1.D. has been added to the First Amendment as follows:

**D. Management Fee.** For the term of the CCBID – Shuttle Operator Agreement, the City shall pay to CCBID the sum of \$833.33 per month (the "Management Fee") for management of the Shuttle Services. The Management Fee is intended to offset the CCBID's additional direct and indirect legal, accounting, and other costs and expenses that the CCBID is anticipated to incur in overseeing the Shuttle Operator and managing the CCBID – Shuttle Operator Agreement.

- The term of the First Amendment runs through December 31, 2013, and that any extension of the Marketing Fee must be extended through future legislative action of City Council.

Alderman Giancola moved to approve Resolution No. 12-16: A resolution of the City Council of the City of Central, Colorado approving the First Amendment to Intergovernmental Agreement by and between the City of Central and the Central City Business Improvement District with the monthly Management Fee of \$833.33. Mayor Engels seconded. In discussion, Alderman Voorhies stated that this is a combined agreement and wants the shuttle service to stay within budget. When Mayor Engels called the question, the motion carried 2 votes to 1 with Alderman Voorhies voting no.

Ordinance No. 12-18: *An ordinance of the City Council of the City of Central, Colorado amending certain provisions of Chapter 4 of the Municipal Code concerning revenue and finance.*

Finance Director Flowers explained over the course of the year and a half staff and legal counsel have been reviewing the Municipal Code to clean up obsolete provisions, create administrative efficiencies and simplify language and cross referencing so that staff, residents and businesses can more easily access the regulations set forth in the Code. The changes and amendments contained in Ordinance 12-18 do so for Chapter 4 of the Municipal Code.

The changes and revisions contemplated in Ordinance 12-18 were reviewed by Council at a work session on July 17, 2012. At that work session Council asked that legal counsel determine whether or not food stamps were included under Section 4-54 as exempt items. Section 4-54(n) has been added to include a food stamp exemption. Language has been added to Section 4-47 to formalize the City's existing practices regarding the collection of sales and lodging tax on complimentary meals and rooms.

The most significant changes proposed under Ordinance 12-18 are to the sections specific to the Procurement of Goods and Services (beginning with Section 4-241). As Council is aware, the existing procurement and bidding procedures in Chapter 4 are extremely confusing, at times contradictory and cumbersome to adhere to. For this reason, staff and legal counsel have simplified these sections and included a chart that easily identifies what purchasing requirements shall be followed within certain budgetary ranges.

Fiscal impacts are not expected to be significant as the changes to interest rate collections are minor and this ordinance does not affect any practices currently in place regarding sales, use or lodging tax collection. The changes to the Procurement of Goods and Services sections will not have any direct financial impacts but will allow staff to obtain good pricing and potential cost savings when purchasing goods and services thereby saving the City money.

Attorney Michow stated that this will not change the thresh-holds for procurement, only the process. The proposed changes allow efficiency while keeping the checks and balances.

Alderman Voorhies moved to adopt Ordinance No. 12-18: An ordinance of the City Council of the City of Central, Colorado amending certain provisions of Chapter 4 of the Municipal Code concerning revenue and finance and set the public hearing for December 18, 2012 at 7:00 p.m. Alderman Giancola seconded, and without discussion, the motion carried unanimously.

Ordinance No. 12-19: *An ordinance of the City Council of the City of Central, Colorado amending certain provisions of Article II of Chapter 6 of the Central City Municipal Code; specifically fees and charges related to avoidable or false alarms.*

Finance Director Flowers explained that in conjunction with the Municipal Code revisions that staff and legal counsel have been doing over the past year, staff has been removing any specific fees and/or charges from the Code itself and incorporating them into the Comprehensive Fee Schedule instead. A resolution to include the revised fees for avoidable and false alarms on the Comprehensive Fee Schedule will be presented to Council for consideration upon adoption of Ordinance 12-19 following second reading. The Police Department now responds to false alarms and the business owner has not had any incentive to repair their alarm system.

Alderman Giancola moved to adopt Ordinance No. 12-19: An ordinance of the City Council of the

City of Central, Colorado amending certain provisions of Article II of Chapter 6 of the Central City Municipal Code; specifically fees and charges related to avoidable or false alarms and set the public hearing for December 18, 2012 at 7:00 p.m. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Ordinance No. 12-20: *An ordinance of the City Council of the City of Central amending certain provisions of Article VI of Chapter 2 of the Central City Municipal Code regarding Historic Preservation Commission membership.*

CDD/HPO Thompson explained that the purpose of this ordinance is to amend the Municipal Code to indicate who can be on the Historic Preservation Commission. At this time, there are restrictions on who can serve on the Planning Commission. No such restrictions currently exist for HPC members. Since treating the membership of the HPC and the PC similarly seems appropriate, the language could include allowance for one member to serve on both commissions similar to what is stated in the PC section.

Alderman Voorhies moved to adopt Ordinance No. 12-20: An ordinance of the City Council of the City of Central amending certain provisions of Article VI of Chapter 2 of the Central City Municipal Code regarding Historic Preservation Commission membership with an amendment to allow a Planning Commission member to serve on Historic Preservation Commission and a Historic Preservation Commission member to serve on Planning Commission and set the public hearing for December 18, 2012 at 7:00 p.m. Alderman Giancola seconded, and without discussion, the motion carried unanimously.

#### Request for \$51,500 for Hillside Garage Geotech Survey work

Manager Lanning explained as discussed at the 11/20/2012 work session, the Council indicated it would like to see a request to fund the initial Geotech investigation work for a proposed Hillside Parking Garage. The request was made on behalf of the Hillside Garage Working Group and is a necessary step in the overall development of the project and critical for future design and planning. The properties included are the Post Office, Knights of Pythias, Schmaltz, Tebow and Zimpel. All owners have been contracted and access agreements have been prepared and are awaiting signatures. Century Link has not been set up yet. The Post Office contacted us late today and the access agreement has been sent over to them. The total fiscal impact is \$51,500 with funds available from designated reserves.

The Hillside Garage Working Group has been meeting for the past 3 months, working to determine if a garage project is feasible. The process began with a BBC economic impact assessment earlier in 2012 and the Working Group began with the BBC recommendations. The Geotech initial survey is necessary to continue the process and allow for architectural and engineering work over the next new months, culminating in a project that can be funded through a municipal bond, with a goal of beginning construction in 2013.

Alderman Giancola moved to approve Hillside Garage Geotech Survey work at a cost of \$51,500. Mayor Engels seconded. In discussion, Alderman Voorhies stated that spending this money now puts us in the hole in the General Fund to begin 2013 for a project that Council has not agreed to do and we need to draw the line somewhere. Alderman Giancola stated that it is really important to have this work done to move forward with attaining additional parking in the City. Also, Council has agreed on this project in principal and the funds expended will be reimbursed with the bond on the project. Mayor Engels stated that though this seems premature, it is valuable prep work to keep

the project moving forward. When Mayor Engels called the question, the motion carried 2 votes to 1 with Alderman Voorhies voting no.

#### Discuss/Approve Year-end Bonus for Staff

Mayor Engels explained that this is a proposal for an EOY Bonus for staff with various amounts to be considered. My recommendation would be for a Council motion to support and approve the \$500 level. The total fiscal impact would be \$13,400 including the City's portion of taxes. Staff did not receive either a Cost of Living Adjustment for 2012, nor any merit increase. Our improved financial condition, improved operations and project management efficiencies warrant a discussion. This has been a good year for the City and so to staff, a hearty congratulations for all their hard work.

Alderman Voorhies moved to approve bonus levels for the \$500 level with an additional \$2,000 to Manager Lanning. Mayor Engels seconded. In discussion, Alderman Voorhies stated her agreement with the bonus and thanked staff especially Operations Director Kisselman as Main Street looks great. Alderman Giancola stated that staff has done a great job and we have a good team of employees but since we approved a raise for next year, he must take the conservative approach and vote no. If the staff and manager bonus were separate, he would support the manager bonus as it was discussed earlier in the year. When Mayor Engels called the question, the motion carried 2 votes to 1 with Alderman Giancola voting no.

#### Resolution No. 12-18: A resolution appropriating additional sums of money to defray expenses in excess of amounts originally appropriated in the 2012 Budget for the City of Central.

Finance Director Flowers explained the City's 2012 Budget was adopted under Ordinance 11-14 on November 1, 2011. The adoption of Ordinance 11-14 legally appropriated money for the expenses shown in the budget and authorized staff to use funds for those purposes. Throughout the year staff and Council may re-allocate funding from line items or departments as necessary to meet the needs of the City but if it becomes necessary to exceed a Fund's overall appropriated expense amount Council must appropriate additional money. This additional appropriation is also referred to as a Supplemental Budget Appropriation. During 2012, five of the City's funds had unanticipated expenditures, or expenditure-like transactions that make it necessary to adopt a Supplemental Budget Appropriation. This resolution appropriates additional money for these funds so that the City will remain in compliance with statutory budget law.

Five of the City's funds require supplemental budget appropriations due to unanticipated expenses throughout the year. The funds and amounts of additional appropriations needed are shown below.

	<u>Original</u>	<u>Revised</u>	<u>Increase</u>
General Fund	\$4,102,148	\$4,590,007	\$487,859
Historic Preservation	\$ 406,625	\$ 917,514	\$510,889
Debt Service Fund	\$ 700,875	\$ 705,875	\$ 5,000
Conservation Trust Fund	\$ 0	\$ 7,456	\$ 7,456
Water	\$ 689,715	\$ 791,868	\$102,153
<b>Total Increase in Appropriations</b>	<b>(**includes staff bonus)</b>		<b>\$1,113,357</b>

The requested increases in allocations for all funds are reflective of the 2012 year-end projections shown in the 2013 Adopted Budget with the exception of the JVA parking garage work in the amount of \$51,500. Therefore, if adopted, the parking garage expenses will decrease the General Fund 2013 beginning fund balance by \$51,500. All other supplemental changes will not have an impact on the

beginning balances used for the 2013 Budget. A brief description of each fund's requested increase is shown below.

General Fund	Additional Legal Expenses	73,000
	BBC Parking Study (Reimbursed)	55,000
	JVA Parking Garage Work	51,500
	BID Marketing/Events (Reimbursed)	135,000
	PD PT/FT Officer	21,199
	PD Vehicle Maintenance	6,000
	PD Emergency Equipment	12,000
	CCP Crack Filling	11,301
	Fire Truck Maintenance	15,000
	<u>PD Vehicle Lease Recognition</u>	<u>95,499</u>
	Total	\$ 475,499
Historic Preservation	Ennovate Contract	489,773
	Sidewalk Work	7,000
	<u>Contingency for Outstanding Projects</u>	<u>13,227</u>
	Total	\$ 510,000
Debt Service	Treasurer's Fees	3,850
	<u>Interest on Short Term Loan</u>	<u>1,150</u>
	Total	\$ 5,000
Conservation Trust	Benches for Streetscape	2,540
	<u>Fish for Chase Gulch</u>	<u>4,916</u>
	Total	\$ 7,456
Water	Reclass of Employee from PW	43,000
	Additional Legal & Engineering	52,000
	<u>Chemicals</u>	<u>5,000</u>
	Total	\$ 100,000
TOTAL REQUESTED INCREASE IN ALLOCATIONS		\$ 1,097,955

Adoption of Resolution 12-18 is necessary to ensure that the City remains in compliance with state budget laws. Not formally appropriating additional funding could put the City in violation of TABOR as well as other state laws.

Alderman Voorhies moved to approve Resolution No. 12-18: A resolution appropriating additional sums of money to defray expenses in excess of amounts originally appropriated in the 2012 Budget for the City of Central as amended. Alderman Giancola seconded, and without discussion, the motion carried unanimously.

Resolution No. 12-19: *A resolution of the City Council of the City of Central, Colorado approving a Professional Services Agreement with JVA, Inc. for Engineering Services.*

Operations Director Kisselman explained that there is no retainer fee for this agreement. Fees are

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collected based on the on call services provided with no increase in billing rates from last year. JVA Inc. is an engineering firm located in Boulder with satellite offices in Winter Park and Ft. Collins. JVA has been working with the City for the last year, assisting with projects, developing standards and grant writing. Staff is pleased with the services and would like to continue the agreement for services.

Alderman Giancola moved to approve Resolution No. 12-19: A resolution of the City Council of the City of Central, Colorado approving a Professional Services Agreement with JVA, Inc. for Engineering Services. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Resolution No. 12-20: A resolution of the City Council of the City of Central, Colorado adopting a new Employee Handbook.

Attorney Michow gave the background as follows: the City Council requested that the City Attorney revise the existing employee handbook, which was last prepared in 2004 under the previous City administration. After receiving substantial input from both City Council and staff, the City Attorney is presenting the attached Employee Handbook for City Council's consideration. The City's Employee Handbook was last reviewed and adopted in its current form in 2004, with minor revisions made in 2007. Since that time, there have been changes in federal and state employment laws and the types of issues that arise in the modern workplace. Moreover, City management identified several areas in the existing handbook that either add to the cost of City operations or complicate the administration of personnel matters. The City Attorney has prepared the attached Employee Handbook, which contains updated guidelines to reflect accurately the City's expectations of its staff, streamline personnel matters, and provide the City with maximum flexibility in managing City employees in order to accomplish the goals of the City. City employees received the proposed Handbook on November 26, 2012 and were notified that they could provide comments or input related thereto to the City Finance Director or to City Council at its regular meeting on December 4, 2012.

City Council and staff have determined that it is appropriate to consider the proposed Employee Handbook at the December 4 meeting in order to implement the updated Handbook in time for calendar year 2013. However, City Council has also determined that it requires additional time to evaluate the City's current practices regarding paid sick and vacation leave for eligible City employees. As a result, the proposed Employee Handbook does not address or change those practices at this time. The City Council may evaluate and change those practices at a later date, as the proposed Handbook merely refers employees to the Finance Director for information regarding sick and vacation leave.

Alderman Voorhies moved to approve Resolution No. 12-20: A resolution of the City Council of the City of Central, Colorado adopting a new Employee Handbook with reserving the benefit section for next year. Mayor Engels seconded. In discussion, Alderman Giancola stated that this has been on the back burner for 2½ years and if we approve it now without the benefit's section, this will not get done. Mayor Engels stated that it is important to get these changes approved now and pick up from here with the new council in 2013. When Mayor Engels called the question, the motion carried 2 votes to 1 with Alderman Giancola voting no.

## **STAFF REPORTS**

Manager Lanning stated he appreciates the bonus from Council and the recognition of our efforts and we will continue to work hard in 2013.

Operations Director Kisselman stated that the Energy & Mineral Impact Grant has been submitted and thanked staff for their assistance as well as the organizations that gave letters of support. He also thanked Fire Chief Allen for help with the remediation of the dump site.

#### **COUNCIL COMMENTS**

Alderman Giancola asked for the Energy and Mineral grant numbers. Manager Lanning offered to send them out tomorrow.

Alderman Voorhies thanked staff for going above and beyond to make the City look nice. She also invited all citizens to join us on December 18 for the Council open house after the meeting.

#### **PUBLIC FORUM/AUDIENCE PARTICIPATION**

Gloria Gaines, 781 Martin Drive, stated that the City looks beautiful with the new brick street and the holiday decorations.

Alderman Voorhies moved to invite Alderman-elect Gaines and Alderman-elect Heider to join Council in Executive Session with the same confidentiality requirements. Alderman Giancola seconded, and without discussion, the motion carried unanimously.

At 8:38 p.m., Alderman Voorhies moved to adjourn into Executive Session – Pursuant to C.R.S. Section 24-6-402(4)(b) for purposes of receiving legal advice concerning the Ballowe litigation. Alderman Giancola seconded, and without discussion, the motion carried unanimously.

The next Council meeting is scheduled for December 18, 2012 at 7:00 p.m.

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Ronald E. Engels, Mayor

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Reba Bechtel, City Clerk